

REMARKS/ARGUMENTS

This amendment is in response to the Office Action mailed on April 9, 2003. Claims 1 and 8 have been amended. Claims 7 and 15 have been canceled, without prejudice. Claims 1-6, 8-14 and 16 are pending. Reconsideration of the above-identified application in view of the above amendments and the following amendments is respectfully requested.

Claims 1-4, 6-13 and 15-16 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 4,294,355 to Jewusiak et al. The Examiner maintains that Jewusiak discloses a tray 10 for holding a plurality of surgical fasteners 30. The tray includes a base 11 and two wells defined by channel walls, 14, 15, 16, and 17, and a film 12.

Claims 5 and 14 stand rejected under 35 USC §103(a) as being unpatentable over Jewusiak in view of U.S. Patent No. 4,190,153 to Olsen. The Examiner is relying on Olsen for the teachings of providing slits within access cover 24 of a sponge disposal tray.

Independent claims 1 and 8 of the present invention have been amended to make it clear that the tray includes a base with a plurality of wells and that at least two of the surgical fasteners are disposed within at least two of the wells. In addition, each of the wells and surgical fasteners within each well are sterile, regardless of whether any of the other wells have been opened. In other words, should the film be penetrated to access one of the surgical fasteners in one of the wells, the sterile environment in the remaining wells is maintained.

Based upon the Examiner's interpretation of Jewusiak, Jewusiak's tray 10 contains two wells. However, each of these wells is an open channel in fluid communication with all of the clips 30 placed within the tray 10. Thus, when the tray is accessed to retrieve the first clip 30, the sterile environment for the remaining clips 30 is no longer maintained. Thus, Jewusiak fails to teach or suggest the present invention as exemplified by amended independent claims 1 and 8, which require that the sterile environment in the remaining wells be maintained regardless of whether any of the other wells have been opened.

Applicants further note that Olsen fails to teach or suggest the deficiencies in Jewusiak as Olsen's tray is used to dispose of sponges and is therefore never maintained in a sterile environment.

Serial No. 09/960,020

For the above reasons, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: July 9, 2003